



1 Ronald Mazzaferro, Paul Den Beste or Robert Van Zandt from filing  
2 a notice of removal of either of these cases from the San  
3 Francisco Superior Court without a pre-filing review to determine  
4 whether the notice of removal establishes legitimate grounds for  
5 removal. Mazzaferro has now filed a motion to vacate the pre-  
6 filing order and a motion to alter or amend the remand order.

7 Civil Local Rule 7-9(a) provides, "No party may notice a  
8 motion for reconsideration without first obtaining leave of Court  
9 to file the motion." Accordingly, the Court will construe the  
10 motion to alter or amend to be a request for leave to file a  
11 motion for reconsideration. A request for leave to file a motion  
12 for reconsideration may only be granted if the moving party shows:  
13 (1) that "at the time of the motion for leave, a material  
14 difference in fact or law exists from that which was presented to  
15 the Court before entry of the interlocutory order for which  
16 reconsideration is sought"; (2) "the emergence of new material  
17 facts or change of law occurring after the time of such order"; or  
18 (3) "a manifest failure by the Court to consider material facts or  
19 dispositive legal arguments which were presented to the Court  
20 before such interlocutory order." Civil L.R. 7-9(b).

21 Mazzaferro provides no legal authority for his motion to  
22 vacate the pre-filing order. Accordingly, the Court will  
23 interpret the motion to vacate to be a motion for leave to file a  
24 motion for reconsideration. Den Beste and Van Zandt have filed  
25 notices of joinder in the motions.

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## DISCUSSION

2        The Court finds that Mazzaferro's motions fail to articulate  
3 any new material facts or any change of law after the order was  
4 issued. Moreover, Mazzaferro has failed to identify any failure  
5 by the Court to consider material facts or dispositive legal  
6 arguments. The motions are in large part a restatement of various  
7 arguments raised in Mazzaferro's opposition to the motion to  
8 remand. The Court addresses only those arguments which were not  
9 previously raised in the opposition.

10 I. Pre-Filing Order

11        Mazzaferro argues that the pre-filing order must be vacated  
12 because he, Van Zandt and Den Beste are defendants, not plaintiffs  
13 in the underlying litigation. However, none of the cases cited by  
14 Mazzaferro indicates that a district court's authority to enter a  
15 pre-filing order against a vexatious litigant is limited to  
16 entering such an order against a plaintiff and the Court is aware  
17 of no such authority.

18 II. Plaintiff Edith Mazzaferri

19        Mazzaferro notes that Plaintiff Edith Mazzaferri did not file  
20 a motion to remand the case. Therefore, Mazzaferro argues,  
21 Mazzaferri's claims should not be remanded to state court.  
22 However, the Court remanded the entire consolidated case, finding  
23 it had neither diversity nor federal question jurisdiction. "If  
24 at any time before final judgment it appears that the district  
25 court lacks subject matter jurisdiction, the case shall be  
26 remanded." 28 U.S.C. § 1446(c). Because the Court lacked subject  
27 matter jurisdiction over Mazzaferri's claims, remand was required.

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CONCLUSION

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Accordingly, the Court DENIES the motion to vacate the pre-filing order (Docket No.21) and the motion to alter or amend the order remanding this case to state court (Docket No. 22).

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IT IS SO ORDERED.

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Dated: 4/2/2014

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CLAUDIA WILKEN  
United States District Judge

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